

ORDER NO. 739

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Dan G. Blair;
Tony L. Hammond; and
Nanci E. Langley

Annual Compliance Report

Docket No. ACR2010

ORDER GRANTING STAY

May 27, 2011

On May 17, 2011, the Postal Service requested that the Commission stay those portions of the 2010 Annual Compliance Determination (ACD) “in which the Postal Service is directed to take specific remedial action regarding the Standard Mail Flats product.”¹ The request is granted.

The Postal Service has filed a Petition for Review of the 2010 ACD.² The stay will remain in effect until 30 days following resolution of the 2010 ACD petition for review.

¹ Motion of the United States Postal Service Requesting Stay of the Remedial Provisions Regarding Standard Flats Set Forth in the FY 2010 Annual Compliance Determination, May 17, 2011, at 1 (Motion).

² *United States Postal Service v. Postal Regulatory Commission*, No. 11-1117 (D.C. Cir. filed Apr. 27, 2011).

The Motion recognizes that the 2010 ACD required the Postal Service to take both general remedial action and more specific action regarding the Standard Mail Flats product. The Motion requests a stay of the specific remedial action. The specific action identified is the requirement that the Postal Service present a schedule of above-CPI price increases for Standard Mail Flats within 90 days.

The Postal Service Motion does not request a stay of the general remedial action regarding the Standard Mail Flats product established in the 2010 ACD.

Four replies to the Motion have been filed.³ The ACMA Response and the DMA Response support the Postal Service Motion. The Public Representative Response and the Valpak Response oppose the Motion.

The Commission established the requirement of a schedule for future Standard Mail Flats increases in part to provide mailers with information to help keep rate increases predictable. See 39 U.S.C. 3622(b)(2). However, no mailer opposes the Postal Service request for the reason that the absence of the schedule will make it more difficult to budget for potential postage expenses. The Commission therefore accepts the Postal Service's suggestion that it may be desirable to forgo the production of that schedule while it obtains judicial review of the underlying decision.

In reaching this conclusion, the Commission emphasizes that it remains committed to Standard Mail rates that conform with 39 U.S.C. 101(d), and disagrees with Valpak's suggestion that a grant of the Postal Service's motion will "likely ... result" in postponement of the achievement of this goal.

³ Motion of the Direct Marketing Association in Support of the United States Postal Service Request for a Stay of the Remedial Provisions Regarding Standard Flats Contained in the FY 2010 Annual Compliance Determination, May 19, 2011 (DMA Response); Public Representative Answer to Motion of the Postal Service for Stay Re Standard Mail Flats, May 19, 2011 (PR Response); Statement of the American Catalog Mailers Association in Support of the Postal Service's Motion for a Stay of the Remedial Provisions Regarding Standard Flats Set forth in the FY 2010 Annual Compliance Determination (ACMA Response); and Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Answer to the Motion of the United States Postal Service Requesting Stay of the Remedial Provisions Regarding Standard Flats Set Forth in the FY 2010 Annual Compliance Determination, May 24, 2011 (Valpak Response).

It is ordered:

The specific remedial action regarding the Standard Mail Flats product established in the 2010 ACD is stayed until 30 days following the resolution of *United States Postal Service v. Postal Regulatory Commission*, D.C. Cir. No. 11-1117.

By the Commission.

Shoshana M. Grove
Secretary

Commissioner Hammond dissenting.